

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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FRANK NUNNARI, et al.,
and others similarly situated,

Plaintiffs,

v.

No. 13-cv-6188 (ERK)(RER)

G.V.P. CATERERS, INC., d/b/a EL CARIBE
COUNTRY CLUB CATERERS, INC.,
PHILIP C. KELLY, and RALPH NOTARO,

Defendants.
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**ORDER GRANTING PRELIMINARY APPROVAL
OF JOINT SETTLEMENT STIPULATION**

This matter having come before the Court upon plaintiffs' unopposed Motion for Preliminary Approval of the "Joint Settlement Stipulation" ("the Settlement"); the Court having considered the written submissions of the parties, including the Settlement, and the record in this matter; and, for other good cause shown,

It is on this 15th day of October, 2015, hereby ORDERED that:

1. Plaintiffs' motion for conditional class certification for settlement purposes only, pursuant to Rule 23, F.R.Civ.P., is GRANTED, and the following class is hereby CERTIFIED for the sole purpose of settlement:

NY Rule 23 Settlement Class: All individuals who were employed by El Caribe as a bartender and/or server between November 7, 2007, and November 7, 2013, and claim they: (i) were paid less than New York's minimum wage; (ii) worked in excess of 40 hours per week but were not paid the appropriate overtime; (iii) worked in excess of 10 hours per week but did not receive an additional hour of pay at their regular hourly rate; (iv) were not provided tips given to them by customers; (v) were denied meal breaks during their shifts; and/or (vi) were not provided their portion of the administrative fee El Caribe charged to and collected from customers.

2. Plaintiffs' motion for conditional certification of a collective for settlement purposes only, pursuant to the Fair Labor Standards Act ("FLSA"), 29 USC § 216(b), is hereby GRANTED, and the following collective is conditionally CERTIFIED for the sole purpose of settlement:

FLSA Settlement Collective: all individuals who were employed by El Caribe as a bartender and/or server between November 7, 2011, and November 7, 2013, and claim they: (i) were paid less than the federal minimum wage; and/or (ii) worked in excess of 40 hours per week but were not paid the appropriate overtime.

3. For purposes of the Settlement, Lyman & Ash is APPROVED as Class Counsel for the NY Rule 23 Settlement Class and the FLSA Settlement Collective.

4. For purposes of the Settlement, Rust Consulting, Inc., is APPROVED as the Claims Administrator.

5. The Notice Forms and Claims and Release Forms attached as Exhibit A to the Settlement fully and accurately inform the Class Members of all material elements of the action and the proposed Settlement and, therefore, are APPROVED.

6. The parties' proposal to disseminate the Notice Forms and Claims and Release Forms set forth in the Settlement is APPROVED and such Forms shall be disseminated as follows:

(a) Class Notices for all Class Members, via first-class mail and e-mail to the last known addresses of Class Members, in accordance with the Settlement § 13(b), and to include links to a general version of the notice on a website in accordance with the Settlement § 13(c).

(b) Within 10 business days after the entry of this Order, in accordance with the Settlement § 12, defendants will provide the information described in §12 to the

Claims Administrator and Class Counsel (except for Social Security numbers).

(c) Within 20 business days after the entry of this Order, the Claims Administrator shall mail the Notice Packages by first-class mail and e-mail in accordance with Settlement §13(b) to the to the last known addresses of each Class Member in accordance with the terms of the Settlement.

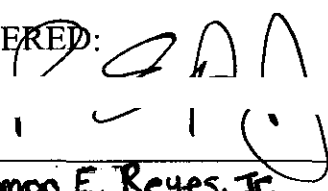
(d) Each Class Member shall have 60 days from the mailing of the Notice Package, which shall be extended in accordance with Settlement § 13, to return a Claim Form, object to the Settlement, or exclude him or herself from the Settlement.

7. The Court schedules a fairness hearing on January 20, 2016, at 12 [~~noon~~/p.m.] to address: (a) whether the Settlement should be finally approved as fair, reasonable, and adequate as to the Class Members; and (b) Class Counsel's application for attorneys fees and lawsuit costs.

8. The Court finds that there is no just reason for delay, and directs the Clerk to enter this Preliminary Order of Approval and stay this action until final approval.

Dated: 10/15/15
New York, New York

SO ORDERED:



Hon. Ramon E. Reyes, Jr.
United States District Judge